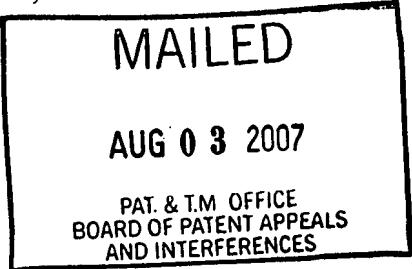


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROGER Y. B. YOUNG, JOHN A. KNOCH,
and JASON W. McNICHOLS

Application No. 10/628,614



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on July 26, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is wherewithal being returned to the examiner. The matter requiring attention prior to docketing is identified below.

APPEAL BRIEF

On April 11, 2006, Appellants filed an Appeal Brief. A review of the file reveals that the "Summary of Claimed Subject Matter" does not map each of the independent claims to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

When the Office holds the brief to be defective solely due to appellant's failure to provided a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v), an entire new brief need not, and should not be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and § 711.02(b).

Accordingly, it is ORDERED that the application is returned to the

Examiner:

- 1) to hold the Appeal Brief filed on April 11, 2006, defective;
- 2) notify Appellants to file a paper providing a Summary of the Claimed Subject Matter as required by 37 CFR § 41.37(c)(1)(v);

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- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37 (c)(1)(v);
- 4) for such further action as may be deemed appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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